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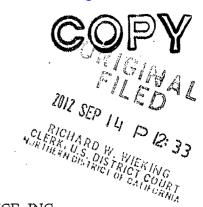
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Mark E. Ellis - 127159 1 Andrew M. Steinheimer - 200524 ELLIS LAW GROUP, LLP 2 740 University Avenue, Suite 100 Sacramento, ČA 95825 3 Tel: (916) 283-8820 Fax: (916) 283-8821 4 Attorneys for Defendant DIVERSIFIED ADJUSTMENT SERVICE, INC. 5 6 7 UNITED STATES DISTRICT COURT 8 NORTHERN DISTRICT OF CALIFORNIA 9 10 E-filing DONNA BURTON, 11 PLAINTIFF, 12 ν. 13 DIVERSIFIED ADJUSTMENT SERVICE, INC., 14

DEFENDANT.



Mendocino Case

No.: MCUK CVCV 1218414

NOTICE OF REMOVAL

### TO THE CLERK OF THE ABOVE-ENTITLED COURT:

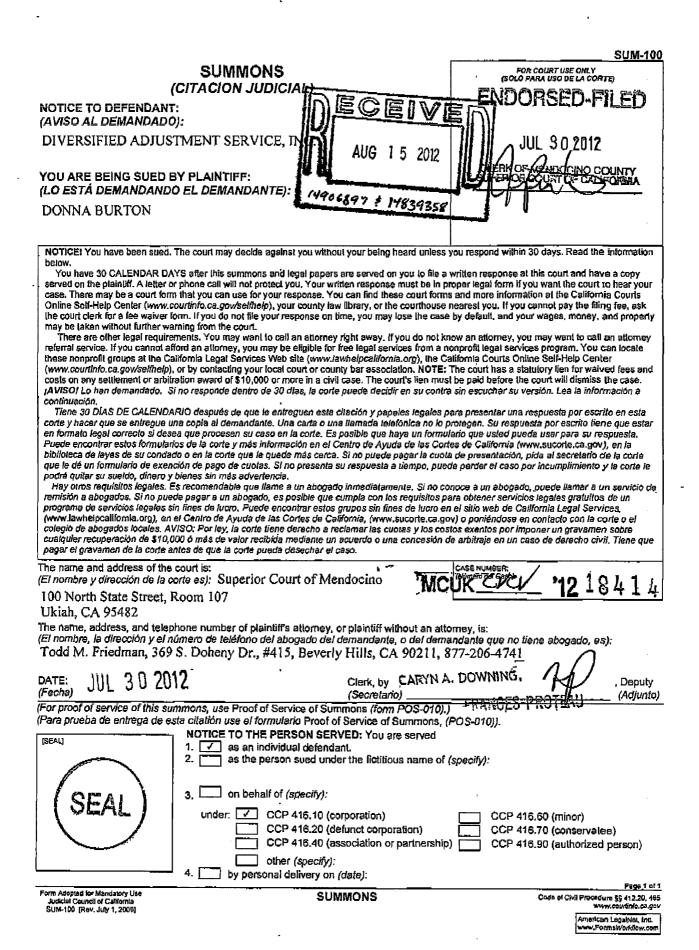
PLEASE TAKE NOTICE that defendant DIVERSIFIED ADJUSTMENT SERVICE, INC., hereby removes to this Court the state court action described below:

- On July 30, 2012, an action was commenced in Superior Court, State of California, 1. Mendocino County, entitled DONNA BURTON, Plaintiff, v. DIVERSIFIED ADJUSTMENT SERVICE, INC., Defendant, as case number MCUK CVCV 1218414.
- 2. On or about August 15, 2012, DIVERSIFIED ADJUSTMENT SERVICE, INC., received the Summons and Complaint, attached hereto as Exhibit A.
- This Court has jurisdiction to hear this case because this action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this Court by defendant pursuant to the provisions of 28 U.S.C. § 1441(b) in that it arises under the federal

Fair Debt Collection Practices Act (15 U.S.C. § 1692, et seq.).
Dated: September 13, 2012  ELLIS LAW GROUP, LLP
A CONTRACTOR
By Andrew M./Steinheimer
Attorney for Defendant DIVERSIFIED ADJUSTMENT SERVICE, INC.
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EXHIBIT

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1 Todd M. Friedman (216752) Nicholas J. Bontrager (252114) 2 ENDORSED-FILED Suren N. Wecrasuriya (278512) Law Offices of Todd M. Friedman, P.C. 369 S. Doheny Dr. #415 JUL 302012 Beverly Hills, CA 90211 Phone: 877-206-4741 5 Fax: 866-633-0228 tfriedman@attorneysforconsumers.com 6 nbontrager@attorneysforconsumers.com 7 sweerasuriya@attorneysforconsumers.com Attorney for Plaintiff 8 9 SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF MENDOCINO 10 LIMITED JURISDICTION MCUK CVCV '12 18414 11 12 13 COMPLAINT FOR VIOLATION DONNA BURTON, OF ROSENTHAL FAIR DEBT 14 COLLECTION PRACTICES ACT AND Plaintiff, FEDERAL FAIR DEBT COLLECTION 15 PRACTICES ACT 16 VS. (Amount not to exceed \$10,000) 17 DIVERSIFIED ADJUSTMENT SERVICE, INC., Violation of Rosenthal Fair Debt 18 Collection Practices Act Defendant. 19 2. Violation of Fair Debt Collection Practices Act 20 21 22 I. INTRODUCTION 23 1. This is an action for damages brought by an individual consumer for Defendant's 24 violations of the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, et seq. 25 (hereinafter "RFDCPA") and the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq. 26 (hereinafter "FDCPA"), both of which prohibit debt collectors from engaging in abusive. 27 deceptive, and unfair practices. 28 Complaint - I

### II. PARTIES

- 2. Plaintiff, Donna Burton ("Plaintiff"), is a natural person residing in Mendocino county in the state of California, and is a "consumer" as defined by the FDCPA, 15 U.S.C. §1692a(3) and is a "debtor" as defined by Cal Civ Code §1788.2(h).
- 3. At all relevant times herein, Defendant, Diversified Adjustment Service, Inc. ("Defendant") was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a "debt," as defined by 15 U.S.C. §1692a(5), and a "consumer debt," as defined by Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).

### III. FACTUAL ALLEGATIONS

- 4. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.
- In January 2012, Defendant initially contacted Plaintiff in connection with an attempt to collect an alleged debt bearing Account No. 14906897 and Client Ref No. C2010892461.
- 6. On or about January 23, 2012, Plaintiff sent a letter requesting that Defendant cease and desist from contacting Plaintiff and informing Defendant that Plaintiff disputes the alleged debt.
- Defendant continued to contact Plaintiff despite receiving Plaintiff's letter
   requesting that they cease and desist.

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- 8. Defendant contacted Plaintiff at (707)467-4826 and (707)621-2164, at times and places that were known to be inconvenient, including contacting Plaintiff at work and after receiving Plaintiff's written request to cease and desist communication.
- 9. Defendant contacted Plaintiff at (707)467-4826 and (707)621-2164, with such a frequency as to constitute harassment under the circumstances, including calling multiples times per day, calling after receiving Plaintiff's request to cease and desist calls, and calling at Plaintiff's work after being informed that such calls were against the policies of Plaintiff's employer.
- Defendant's conduct violated the FDCPA and the RFDCPA in multiple ways, 10. including but not limited to:
  - a) Repeatedly contacting Plaintiff at his/her place of employment after being informed that such calls are inconvenient to Plaintiff and violate the policy of Plaintiff's employer (§1692c(a)(1)(3));
  - b) Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff (§1692c(a)(1));
  - c) Causing Plaintiff's telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (§1692d(5));
  - d) Causing a telephone to ring repeatedly or continuously to annoy Plaintiff (Cal Civ Code §1788.11(d));
  - e) Communicating, by telephone or in person, with Plaintiff with such frequency as to be unreasonable and to constitute an harassment to Plaintiff under the circumstances (Cal Civ Code §1788.11(e));
  - f) Engaging in conduct the natural consequence of which is to harass, oppress, or abuse Plaintiff (§1692d));
  - g) Falsely representing the character, amount, or legal status of Plaintiff's debt (§1692e(2)(A));
  - h) Using false representations and deceptive practices in connection with collection of an alleged debt from Plaintiff (§1692e(10).

11. As a result of the above violations of the FDCPA and RFDCPA, Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

# COUNT I: VIOLATION OF ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

- 12. Plaintiff reincorporates by reference all of the preceding paragraphs.
- 13. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully.

### PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees; and
- D. For such other and further relief as may be just and proper.

### COUNT II: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT

14. Plaintiff reincorporates by reference all of the preceding paragraphs.

### PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- Actual damages;
- B. Statutory damages;
- C. Costs and reasonable attorney's fees; and,
- D. For such other and further relief as may be just and proper.

Complaint - 4

# PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY Respectfully submitted this 23rd day of July, 2012. By: odd M. Friedman, Esq. Law Offices of Todd M. Friedman, P.C. Attorney for Plaintiff П Complaint - 5

NO. 4641 P. 8

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AUG. 23. 2012 2:59PM

1	CERTIFICATE OF SERVICE
2	I, Jennifer E. Mueller, declare:
3	I am a citizen of the United States, am over the age of eighteen years, and am not a party to or
4	interested in the within entitled cause. My business address is 740 University Avenue, Suite 100,
5	Sacramento, CA 95825.
6	On September 14, 2012, I served the following document(s) on the parties in the within action:
7	NOTICE OF REMOVAL
8	BY MAIL: I am familiar with the business practice for collection and processing of mail.
9	The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at Sacramento, CA on this date, addressed as follows:
10	<b>BY HAND</b> : The above-described document(s) will be placed in a sealed envelope which
11	will be hand-delivered on this same date by, addressed as follows:
12	VIA FACSIMILE: The above-described document(s) was transmitted via facsimile from the fax number shown on the attached facsimile report, at the time shown on the attached
13	facsimile report, and the attached facsimile report reported no error in transmission and was properly issued from the transmitting facsimile machine, and a copy of same was mailed, on this same date to the following:
14	VIA OVERNIGHT SERVICE: The above-described document(s) will be delivered by overnight service, to the following:
15	overnight service, to the following.
16	Todd Friedman  Attorneys for Plaintiff  PONNIA PURTON
17	Law Offices of Todd Friedman 369 S. Doheny Drive  DONNA BURTON
18	Suite 415 Beverly Hills, CA 90211
19	Bevery Tims, CA 90211
20	I declare under penalty of perjury under the laws of the State of California that the foregoing is
21	a true and correct statement and that this Certificate was executed on September 14, 2012.
22	a true and correct statement and that this certificate was executed on september 14, 2012.
23	Ву
24	Jennifer E. Mueller
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